



STATE BOARD OF EQUALIZATION

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January 23, 1991

This is sent in response to your letter dated November 19, 1990, wherein you request an opinion regarding the change in ownership consequences of a proposed condominium conversion of a community apartment project. You have expressed your opinion that the condominium conversion will be exempt from these consequences under Revenue and Taxation Code, section 62(a)(2).

Facts

The facts set forth in your letter can be summarized as follows:

1. Your clients are the owners of a community apartment project consisting of 48 separate apartments or units (the property).
2. Each of the 48 owners of the property owns an undivided 1/48th interest in the property as a tenant-in-common and, additionally, possesses the right of exclusive occupancy of his respective apartment.
3. The owners currently pay separate tax assessments on their respective apartments.
4. The owners propose to convert the property to a condominium. After the conversion, each owner will own his present apartment space as a condominium unit and an undivided 1/48th interest in the common area as a tenant-in-common.

While the precise details of the plan of conversion have not been provided, the plan will result in the present owners of the community apartment project becoming direct owners of the units which they presently occupy.

#### Law and Analysis

Unless otherwise specified, all section references are to the Revenue and Taxation Code and all references to the Property Tax Rules are to Title 18, Public Revenue, California Code of Regulations, Property Tax Rules.

For property tax purposes, a change in ownership means a "transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." (Section 60.) However, change in ownership does not include:

Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common. (Section 62(a)(1); see also Property Tax Rule 462(b).)

In this case, the 48 owners hold the property as equal tenants-in-common, with separate occupancy rights to their respective apartments. (See Civil Code, section 1351(d).) During the conversion, the coowners will transfer the subdivided condominium units to the occupants of the units. After the conversion, the owners will hold the common area as equal tenants-in-common, but will individually own their present apartment spaces as condominium units.

Since the conversion does not involve a transfer of property to or from a legal entity, section 62(a)(2) is inapplicable. However, section 62(a)(1) applies since the conversion results only in a change in the method of holding title and does not change the proportional ownership interests of the coowners in the property.

This conclusion is consistent with our prior written opinions. The condominium conversion of a cooperative housing corporation involves the transfer of individual units from the corporation to the shareholders who lease and use the units. In that circumstance, we have previously given our opinion that the transfer of units from the cooperative housing corporation to the shareholder/occupants constitutes a change in the method of

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holding title in which proportional ownership interests remain the same. (See letters from Board of Equalization Tax Counsel Barbara G. Elbrecht, dated July 30, 1985 and March 26, 1987.)

The condominium conversions of the cooperative housing corporations referenced in the above letters present a situation which is similar to the proposed condominium conversion of the community apartment project set forth in your letter. Hence, a similar legal analysis can be applied. It is, therefore, our opinion that the proposed transfer of the 48 condominium units from the tenancy-in-common to the individual occupants results only in a change in the method of holding title which does not change the proportional interests of the coowners. As a consequence, the proposed transfer should be excluded from change in ownership consequences under section 62(a)(1).

The views expressed in this letter are advisory only and are not binding upon the assessor of any county. You may wish to consult the appropriate assessor in order to confirm that the subject property or properties will be assessed in a manner consistent with the conclusions stated above.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



Robert W. Lambert  
Staff Counsel

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3640H

cc: Mr. Richard H. Ochsner  
Mr. John Hagerty